

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
 CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4021 OF 2006

Kamlesh Jaikumar Patani .. Applicant
 Versus
 The Central Bureau of Investigation
 and Anr. .. Respondents

Mr.Meghashyam Kocharekar for applicant
 Mr.R.Y.Mirza, for C.B.I.

CORAM : S.C.DHARMADHIKARI, J.
 DATE : 21st November 2006.

P.C.

. The applicant has been arrayed as an accused in a criminal case alleging offences of cheating and forgery. The investigations were commenced by C.B.I., upon a complaint by the Branch Manager, Mr.Salunke of Bank of India.

2. I am not concerned in this application with the allegations made against the applicant

and his role. It is clear that the investigations being complete, ultimately the case is made over to the court of Special Judge trying offences under Prevention of Corruption Act. Applicant had initially attended the Court but later on did not attend the same and, therefore, was directed to be taken into custody. His application for bail was rejected on merits on 19th July 2006 and 21st August 2006. Applicant has been in custody from 28th June 2006. Application for bail is opposed because applicant allegedly is changing his residence. The change is frequently made which makes it impossible for the prosecution to keep a track on him.

3. The submission of Mr.Mirza, appearing for prosecution (respondent No.1) is that the applicant was absconding and with great difficulty his presence could be secured. These facts are noted in the order of trial court.

Bailable warrant being issued, the applicant appeared on 15th November 2000. Later on applicant absconded and a proclamation had to be issued. He is arrested after a non bailable warrant is issued. The charge being serious, this is a case where the applicant should not be shown any leniency.

4. I have perused the order passed by the trial court. The trial court was influenced greatly by the fact that the applicant was absconding and his conduct is such that he does not deserve any discretionary and equitable relief.

5. I had made it clear to Mr.Kochrekar appearing for applicant that if the applicant desires any equitable and discretionary relief more so that of being enlarged on bail during the trial of Special Case, he has to state with certainty that he is residing at the address

mentioned in the cause title viz., at Mira Road, Dist.Thane so also he must give undertaking to this Court that he would regularly attend the trial in the special case on every date and would not abscond or keep away from the same. Unless exempted by the trial court, the applicant should continue to remain present at the trial.

6. Wife of the applicant is present. Through Mr.Kochrekar applicant has given undertaking that hereafter he shall remain present in the trial court. The applicant's wife has confirmed this undertaking. She states that Mr.Kochrekar has given undertaking on behalf of the applicant and after taking instructions from him.

7. The wife has further filed an affidavit setting out therein that she and the applicant so also their family members are residing at the address mentioned in the affidavit and undertake

that they will not change this residential address nor shift therefrom for next three years. In the event, applicant is required to shift the residence, Mr.Kochrekar states that he has instructions to make a statement that applicant shall do so only with prior intimation to the I.O. Further, the applicant would abide by all such conditions as are imposed upon him by this Court.

8. I have perused the application. Since the applicant desires that the court should take cognisance of his ailment and hospitalisation, that I have entertained the application. Applicant cannot claim blanket protection or exemption for staying away from the investigations and trial permanently. He ought to have been aware that being an accused in a criminal case, his freedom and liberty can be curtailed. Being so aware, it was his plain duty to appear before the investigating machinery so

also the court. The special case has been pending for considerable length of time. Giving the applicant a last opportunity and in the light of the undertaking of the applicant and his wife, following order would meet the ends of justice.

i) The applicant arrested in connection with Special CBI Case No.100 of 1999 pending before Special Judge, under Prevention of Corruption Act, shall be enlarged on bail in the sum of Rs.15,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will remain present before the concerned investigating officer G.B.C.B., C.I.D., E.O.W. once a week on every Saturday between 5.00 p.m. and 7.00 p.m. till conclusion of the trial.

iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change or shift from his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for

expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

. Mr.Kochrekar, learned Advocate for applicant states that the surety which the applicant would furnish shall be other than the wife of applicant.

(S.C.Dharmadhikari, J)